IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE SEVENTEENTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE SRI DEVINDER GUPTA, THE CHIEF JUSTICE

and
THE HON'BLE SRI JUSTICE B.SESHASAYANA REDDY

WRIT PETITION NO : 11776 of 1990

Between:

1. Mr. K.V.L.Narasimha Rao (died)

2. K.Suryakanthamma w/o late KVL Narasimha Rao,

aged 68 years.

3. K.Prabhakar Rao S/o late KVL Narasimha Rao, aged

about 57 years.

4. K.Seshagiri Rao s/o late KVL Narasimha Rao,

aged 54 years.

(Petitioners 2 to 4 are brought on record as legal representatives of the deceased first petitioner as per court order in WPMP No.24569/2001, dated: 8.11.2001.)

..... PETITIONER

AND

1. The Government of A.P., represented by the Chief Secretary,

Secretariat Buildings, Hyderabad.

2. The Accountant General of Andhra Pradesh, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate order, writ, or direction, particularly, in the nature of a Writ of Certiorari calling for records in Government or G.O.(P) No. 169 Finance and Planning, dated 26.4.1980 together with consequential orders of Government in their Memos No. 1609/SEF/88-2, dated: 3-10-1988 and 22-1-1990 and quash the same issuing consequential directions for restoration of commuted portion of the pension with effect from 30.11.1986 making refund of Rs. 8,073.20 p. illegally recovered.

Counsel for the Petitioner: Mr. K.PRATAP REDDY

Counsel for the Respondents: GP FOR FINANCE & PLANNING

The Court made the following :

ORAL ORDER:

(per Honourable Sri Devinder Gupta, the Chief Justice)

K.V.L.Narasimha Rao, a retired Judicial Officer from A.P. Judicial Service, when he was of 73 years of age, filed the Writ Petition seeking a Writ to quash G.O.(P) No. 169 Finance and Planning, dated: 26.4.1980 together with consequential orders of the Government in their Memo Nos. 1609/SEF/88-2, dated: 3.10.1988 and 22.1.1990 and consequently direct restoration of commuted portion of the pension with effect from 30.11.1986 making refund of Rs. 8,073.20 illegally recovered. The petitioner in the writ petition, specifically pointed out that he had completed 73 years of age on 30.11.1986 and as held by this Court in Writ Petition No. 12148 of 1988 decided on 2.7.1990, Government should restore the commuted portion of pension from 30.11.1986 and it is wholly illegal on the part of the respondents in denying the same relief to the petitioner herein.

During the pendency of the writ petition, the petitioner had expired, and, his legal representatives, namely, wife and two sons, have been brought on record.

We had called for the records of similarly disposed of writ petitions and we have gone through the record of Writ Petition No. 12149 of 1988, which was filed by a

similarly situated person for similar relief. Judgment was delivered on 2.7.1990 by declaring G.O. (P) No. 169 Finance and Planning dated: 26.5.1980 and its annexures specifying different higher ages for restoration of commuted pension as illegal and the Government was directed to restore the commuted value of the pension to the writ petitioner in accordance with G.O.(P) No.108 Finance and Planning (Finance Wing Pension II) Department, dated: 31.3.1980 on his attaining the age of 70 years with consequential benefits.

We are informed that the said judgment was implemented by the Government. In similar terms, a Division Bench of this Court rendered judgment in Writ Appeal No.1778 of 1988 and Writ Petition No.3917 of 1989, which orders have also been implemented and there is no difference insofar as the factual aspect is concerned between those cases and that of the petitioner. Consequently, we allow the Writ Petition declaring G.O.(P) No.169 dated: 26.5.1980 as illegal with direction to the respondents to restore the commuted value of the pension to the petitioner in accordance with G.O.(P) No.108, dated: 31.3.1980 on his attaining the age of 70 years with all consequential reliefs as prayed for.

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DEVINDER GUPTA, C.J.

17.3.2005.

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B.SESHASAYANA REDDY, J.

VR.

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice, on this day the Seventeenth day of March, 2005.

To

1. The Government of A.P., represented by the Chief Secretary,

Secretariat Buildings, Hyderabad.

2. The Accountant General of Andhra Pradesh, Hyderabad

3. Two CCs to Government Pleader for Finance and Planning, High Court Buildings, Hyderabad (OUT).

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